

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

GILBERT MEDICAL BUILDING LCC,)	
And AKY MD GILBERT, LLC,)	
)	
Plaintiffs,)	
)	
v.)	CIV-20-896-R
)	
TRAVELERS CASUALTY)	
INSURANCE COMPANY OF)	
AMERICA,)	
)	
Defendant.)	

JOINT STATUS REPORT AND DISCOVERY PLAN

Date of Conference: February 8, 2021

Appearing for Plaintiff: Preston J. Dugas III

Appearing for Defendant: Darrell W. Downs

Jury Trial Demanded X - Non-Jury Trial ☐

1. **BRIEF PRELIMINARY STATEMENT.** State briefly and in ordinary language the facts and positions of the parties to inform the judge of the general nature of the case.

Plaintiff: Gilbert Medical Building LLC owned property located at 7530 NW 23rd St., Bethany, Oklahoma, which is now owned by AKY MD Gilbert LLC. The Property was insured by Defendant under a Policy of insurance drafted by Defendant. During the policy period a wind, hail and rainstorm swept through Oklahoma City and damaged the Property. A claim was made under the Policy of which Defendant has failed to pay in full. Thereafter, the claim was transferred to AKY MD Gilbert LLC.

Defendant: Travelers Casualty Insurance Company of America agrees that former Plaintiff Gilbert Medical Building's LLC filed a covered insurance claim with Travelers that it later assigned to current Plaintiff AKY MD Gilbert LLC. Defendant has fully compensated its insured under the policy's provisions and denies Plaintiff is entitled to recover further benefits under its policy.

2. **JURISDICTION**. State the basis on which the jurisdiction of the Court is invoked and any presently known objections. This Court has jurisdiction pursuant to 28 U.S.C. § 1332.
3. **STIPULATED FACTS**. List stipulations as to all facts that are not disputed, including jurisdictional facts.
 - a. Gilbert Medical Building LLC property assigned the insurance claim to AKY MD Gilbert LLC.
 - b. Gilbert Medical Building LLC entered into a valid and enforceable insurance policy with Defendant (Policy No. 680-5A340863-18-42).
 - c. The insurance policy covers certain damages as a result of wind, hail and rain.
 - d. Plaintiff is a resident of Oklahoma.
 - e. Defendant is a resident of Connecticut.
4. **CONTENTIONS AND CLAIMS FOR DAMAGES OR OTHER RELIEF SOUGHT**.
 - a. Plaintiff: Plaintiff alleges that Defendant breached the insurance policy it drafted and issued to Plaintiff by failing to pay the full amount of damages sustained by the Property as a result of a covered cause of loss. Plaintiff also alleges that Defendant breached its duty of good faith and fair dealing in handling the claim.
 - b. Defendant: Defendant alleges that Plaintiff's insurance claim was adjusted in accordance with the policy provisions and no remaining benefits are owed. Defendant further contends that the Plaintiff cannot bring a claim of bad faith in this case as Gilbert Medical Building LLC is no longer a party in this case based upon the Court's October 6, 2020 order.
5. **APPLICABILITY OF FED. R. CIV. P. 5.1 AND COMPLIANCE**.

Do any of the claims or defenses draw into question the constitutionality of a federal or state statute where notice is required under 28 U.S.C. § 2403 or Fed. R. Civ. P. 5.1? No
6. **MOTIONS PENDING AND/OR ANTICIPATED** (include date of filing, relief requested, and date responsive brief to be filed).

There are no pending motions at this time. The parties believe that motions for

summary judgment and/or to exclude experts will be filed after discovery is completed in this matter.

7. **COMPLIANCE WITH RULE 26(a)(1).** Have the initial disclosures required by Fed. R. Civ. P. 26(a)(1) been made? No. The parties anticipate making initial disclosures by January 31, 2021.

8. **PLAN FOR DISCOVERY.**

- A. The discovery planning conference (Fed. R. Civ. P. 26(f)) was held on January 15, 2021.
- B. The parties anticipate that discovery should be completed within nine months.
- C. In the event ADR is ordered or agreed to, what is the minimum amount of time necessary to complete necessary discovery prior to the ADR session? four months.
- D. Have the parties discussed issues relating to disclosure or discovery of electronically stored information, including the form or forms in which it should be produced, pursuant to Fed. R. Civ. P. 26(f)(3)(C)?

X Yes ☐ No

- E. Have the parties discussed issues relating to claims of privilege or of protection as trial-preparation material pursuant to Fed. R. Civ. P. 26(f)(3)(D)?

X Yes ☐ No

To the extent the parties have made any agreements pursuant to Fed. R. Civ. P. 26(f)(3)(D) and Fed. R. Civ. P. 502(e) regarding a procedure to assert claims of privilege/protection after production and are requesting that the court include such agreement in an order, please set forth the agreement in detail below and submit a proposed order adopting the same.

- F. Identify any other discovery issues which should be addressed at the scheduling conference, including any subjects of discovery, limitations on discovery, protective orders needed, or other elements (Fed. R. Civ. P. 26(f)) which should be included in a particularized discovery plan.

The parties do not believe that there are any other discovery issues at this

time.

9. **ESTIMATED TRIAL TIME:** 3-4 days.
10. **BIFURCATION REQUESTED:** No
11. **POSSIBILITY OF SETTLEMENT:** ☐ Good ☒ Fair ☐ Poor
12. **SETTLEMENT AND ADR PROCEDURES:**
 - A. Compliance with LCvR 16.1(a)(1) - ADR discussion: ☒ Yes ☐ No
 - B. The parties agree to hold mediation after a reasonable time for discovery has occurred.
13. **Parties consent to trial by Magistrate Judge?** No
14. **Type of Scheduling Order Requested.** The parties request a Standard scheduling order.

Submitted this 22nd day of January, 2021.

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